IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.287 OF 2002

Shri Madhukar A. Malewadkar,
major, businessman,
Indian National,
resident of Malpe,
Pernem, Goa ... PETITIONER

VERSUS

1. The Government of Goa,
through the Secretary
(Education), Government
of Goa, Secretariat,
Panaji, Goa;

2. The Directorate of Education,
Government of Goa,
with his office at
Panaji, Goa;

3. Shri Krishnanath V. Parab,
major, businessman,
Indian National,
resident of Varcha wada,
Pernem, Goa;

4. Shri Nagesh S.K. Gosavi,
major, service, Indian
National, resident of Sukale,
Korgao, Pernem, Goa;

5. Shri Shantaram L.Naik
Arundekar, major, service,
Indian National, resident of
Valpe, Pernem, Goa;

6. Prakash S. Sawant,
major, service, Indian
National, resident of Valpe,
Pernem, Goa;

7. Shri Shashikant R. Rao,
major, service, Indian
National, resident of
Bhutwadi, Virnoda,
Pernem, Goa;

8. Shri Dinanath S. Parab,
major, businessman,
Indian National,
resident of Valpe,
Pernem, Goa;.

9. Shri Sadanand L. Naik Arundekar,
major, service,
Indian National,
resident of Valpe,
Pernem, Goa;

10. Shri Shrikant S. Vengurlekar,
major, service, Indian National,
resident of Valpe,
Pernem, Goa;

11. Sakharam Sapu Arondekar,
major, resident of Valpem,
Virnoda, Pernem, G oa;

12. Vasudeo Babaji Gaonkar,
teacher, Vikas High School,
resident of Valpem,
Virnoda, Pernem, Goa;

13. Assistant District
Educational Inspector,
Pernem, Goa;

14. Shri Pratap S. Parab,
major,
resident of Virnoda,
Pernem, Goa;

15. Shri Ramnath M. Sawant,
major, near Durga High
School, Pernem, Goa ... RESPONDENTS

Mr. S.D. Lotlikar, Sr. Advocate, with Mr. A.D. Bhobe, Advocate, for the Petitioner.

Mr. A.N.S. Nadkarni, Advocate General, with Mr. H.D. Naik, Addl. Government Advocate, for Respondents Nos.1 and 2.

Mr. M.S. Sonak, Advocate for Respondents Nos. 3 to 8 and 10 to 12.

CORAM : F.I. REBELLO &
P.V. HARDAS,JJ.

DATED : JUNE 10, 2003.

O R D E R (PER **F.I. REBELLO,J.)**

Heard learned Counsel for the parties.

2. Petitioners claim to be the duly elected Committee of the Society. They are aggrieved by the action of Respondents Nos.1 and 2 in recognizing the Committee of Management of the School by the rival Managing Committee of the Society. By the present Petition the Petitioners have prayed that the Respondent No.2 be directed to forthwith withdraw the communications dated 20th September, 2000, 11th January 2001 and 7th March 2001 and by a subsequent amendment, also the communication dated 3rd January, 2003. The real dispute is to the elections held to the Managing Committee of the Society in 1999. The case of the Petitioners is that they were duly re-appointed by the General Body at the meeting which was held on 21-3-1999. At that meeting the Petitioners were duly re-elected as the Office bearers for three years. The Petitioners, it is contended, had submitted to Respondent No.1 the scheme of Management as required under the Education Rules. The Petitioners thereafter were in constant communication and making representations to the Respondent No.2. Respondent No.2 was also addressing letters to the Petitioners. It is further pointed out that though the Petitioners were

duly elected from time to time, there was an omission on their part to record their names before the District Registrar of Societies. On 12-1-2000 they received a communication of the 2nd Respondent that the names of the Members of the Managing Committee was not in order. On that very day the Respondent No.2 issued another letter to the rival Committee Society noting the names of the Members of the Managing Committee. Respondent No.2, it is contended, did not intimate to the Petitioners or call upon them at any stage to explain as to why they should not be recognized and instead the Respondents should be recognized. The action, it was contended, was to favour the Respondents. It is also further contended that they had filed a suit challenging the recognization granted to Committee of Management for the Schools. That suit however came to be dismissed on the ground that the Civil Court would have no jurisdiction considering the provisions of the Education Act. Thereafter, they have filed the present Petition expeditiously. It is, therefore, submitted that the actions of the Respondent No.2 be set aside and the Petition be allowed.

3. On the other hand, on behalf of the Respondents, their learned Counsel has drawn the

attention of the Court to the agenda relied upon by the Petitioners themselves which was fixed for calling the Annual General Body Meeting of the year 1999 at which they claim that they were re-elected. That agenda only provides for reading and confirming the minutes of the last meeting. It was pointed out that no notice was given of holding election to the Managing Committee. It is also pointed out that no resolution was passed on the day on which the Petitioners claim that they were re-elected. Various discrepancies in the Minutes maintained and the Resolution including the signature of Petitioner No.1 who has signed in Marathi on that particular occasion though otherwise he used to sign in English, have also been drawn to our attention. It is also pointed out that it is the Respondents who are managing the Society at least from the year 2000. It is then pointed out that the period for which registration was given had expired. Considering that it is they who applied by resolution to the District Registrar of Societies as required under Section 3-B of the Societies Registration Act for renewal of registration, one of the requirements was to furnish the resolution and the names of the Office bearers. The registration of the Society was renewed by the District Registrar and a certificate to that effect

has been issued by the District Registrar. The Petitioners took no steps to get the registration renewed. It is also pointed out that the meeting was held after giving a due notice and the meeting was requisitioned by six Members. Though the Petitioners herein had filed a suit challenging the recognization of Committee of Management of the School, the Petitioners did not challenge the election of the contesting Respondents as the Office bearers of the Society. The Managing Committee headed by Respondent No.3 have thereafter been re-elected from time to time. It is contended that though the Petitioners had filed the suit and though the suit was dismissed, nothing prevented the Petitioners, if they were the real Managing Committee, from also claiming relief against the Respondents on the ground that the Committee headed by Respondent No.3 was not the duly elected Managing ing Committee of the Society. That was not done. It is, therefore, contended that it is the Respondents who are the duly elected Members of the Managing Committee of the Society and the Respondent No.2 therefore rightly recognized them as such under the scheme of the Management.

4. On behalf of the Respondents Nos.1 and 2 Affidavit has been filed by the Director of

Education. It is pointed out that the communication of 12th January 2000 was only to note the names. In fact, it was by communication of 20th September 2000 that the Respondent No.2, in fact, recognized the Committee of Management on the certificate issued by the District Registrar showing the names of the Respondents as Members of the Committee. It is set out in the Affidavit of Respondent No.2 that the application filed on 5-1-2000 by the Managing Committee headed by Respondent No.3 was examined and the documents verified and it is on 20-9-2000 approved the Scheme of Management. Even otherwise, the Petition raises disputed questions of facts and in these circumstances it is contended that it ought not to be entertained.

5. Considering the arguments, in our opinion, this would not be a fit case for this Court to interfere in exercise of its extraordinary jurisdiction. In the first instance, it will not be possible for this Court on the material before it to finally decide as to which was the rival Managing Committee duly elected as Office bearers of the Society at the meeting held in the year 1999. Petitioners contend that they were re-elected in March 1999. Respondents contend that they were duly elected at a meeting convened in December 1999.

There had been thereafter fresh elections. The core issue however would be as to whether who was validly elected in the year 1999. The Committee led by Respondent No.3 have in their favour the Public Notice requisitioning the General Body meeting. The Petitioners took no steps if they were the legal Members of the Managing Committee, to restrain the Respondents from holding the meeting. Secondly, the Respondents took steps to get the registration certificate of the Society renewed. If the Petitioners were the real Managing Committee, they ought to have taken steps. They chose not to do so. Thirdly, it was the Respondents who took steps to file their names before the District Registrar. The 2nd Respondents have recognized the Committee of Management of the School represented by Respondent No.3. They are in management since the year 2000 continuously. It was also pointed out that fresh elections have been held in the year 2003. The Petitioners do not say anything about the elections held in 2003.

6. Considering the above material, in our opinion, prima facie, the Respondents were able to show that they have been duly elected as Managing Committee of the Society and consequently, the Respondent No.2 on that prima facie material, has

recognized the Committee of the Management proposed by them. In this light of the matter, in our opinion, considering the disputed questions of fact and further, the prima facie findings in favour of the contesting Respondents, this will not be a fit case for this Court to exercise its extraordinary jurisdiction. In the light of that, no interference is called for.

Petition is dismissed.

F.I. REBELLO,J.

P.V. HARDAS,J.

ac.